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Our File No.: 13258-0275

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KEVIN ALFARO and GEORGEANA
SZISZAK,

Plaintiffs,

v.

MICHAEL REMPUSHESKI,

Defendant.

CIVIL ACTION

Case No. 2:21-cv-2271

DEFENDANT MICHAEL REMPUSHESKI'S
ANSWER TO PLAINTIFF'S AMENDED
COMPLAINT, AND JURY DEMAND

Defendant Michael Rempusheski ("Defendant"), by and through his attorneys, Chasan Lamparello Mallon and Cappuzzo, PC, states as follows:

1. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

2. Defendant is without knowledge or information sufficient to form a belief as to the truth of this allegation. Further, there is no allegations directed to Defendant. To the

extent any allegations are directed towards Defendant, same denied.

3. Denied.

4. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

5. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

6. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

7. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

8. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

PARTIES

9. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

10. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

11. Defendant is a detective with the Nutley Police Department. Defendant denies the remaining allegations contained on Paragraph 11.

JURISDICTION

12. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the

extent any allegations are directed towards Defendant, same denied.

13. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

FACTS

I. Mr. Alfaro tweets, and Ms. Sziszak retweets, a post asking for help identifying an officer that Mr. Alfaro believed behaved inappropriately

14. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

15. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

16. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the

extent any allegations are directed towards Defendant, same denied.

17. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

18. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

19. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

20. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

21. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation.

Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

22. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

23. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

24. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

25. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

II. Defendant Rempusheski charges Mr. Alfaro and Ms. Sziszak with cyber harassment

26. Defendant admits that summons were issued. Defendant denies the remainder of Paragraph 26.

27. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

28. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

29. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

30. Defendant admits that complaint-sommons were issues for Plaintiffs. Defendant denies the remainder of Paragraph 30.

31. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the

extent any allegations are directed towards Defendant, same denied.

32. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

33. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

34. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

35. Denied.

36. Admitted.

III. Defendant Rempusheski suceeds in stfiling Mr. Alfaro's and Ms. Sziszak's speech and inflicting additional injuries on them

37. Denied.

38. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation.

Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

39. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

40. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

41. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

42. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

43. Defendant is without knowledge or information sufficient to forma belief as to the truth of this allegation. Futher, there is no allegations directed to Defendant. To the extent any allegations are directed towards Defendant, same denied.

CAUSES OF ACTION

Count 1 - Violation of First Amended Rights -42 U.S.C. § 1983

44. Defendant repeats and re-alleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

45. Denied.

46. Denied.

47. Denied.

48. Denied.

Count 2 - Violation of First Amendment Rights - N.J.S § 10:6-2

49. Defendant repeats and re-alleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

50. Denied.

51. Denied.

52. Denied.

53. Denied.

Count 3 - Malicious Prosecution

54. Defendant repeats and re-alleges each and every allegation set forth in the above paragraphs as if full set forth herein.

55. Denied.

56. Denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Any and all claims that Plaintiffs made against Defendant are barred by the New Jersey Tort Claims Act.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' punitive damages against Defendant must be dismissed because same are not permitted by law.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' Complaint fails to set forth a cause of action against Defendant.

FOURTH AFFIRMATIVE DEFENSE

There was not improper conduct by this Defendant.

FIFTH AFFIRMATIVE DEFENSE

Any injuries and/or damages allegedly sustained by Plaintiffs were caused by parties over which Defendant has no control.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' action is barred by Statute of Limitations.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' action is barred in whole or in part by the by the Doctrine of Comparative Negligence.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' action is barred because Plaintiffs have unclean hands.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs' action is barred by the Doctrine of Estoppel.

TENTH AFFIRMATIVE DEFENSE

The sole negligence or conduct of the Plaintiffs were the cause of any alleged damages sustained by Plaintiffs.

ELEVENTH AFFIRMATIVE DEFENSE

Defendant has no duty towards Plaintiffs.

TWELFTH AFFIRMATIVE DEFENSE

Defendant is immune from suit pursuant to the provisions of the N.J.S.A. 59:5-4.

THIRTEENTH AFFIRMATIVE DEFENSE

Any liability which otherwise may be imposed upon Defendant must be reduced by the application of the standard of comparative negligence.

FOURTEENTH AFFIRMATIVE DEFENSE

Defendant is immune from liability pursuant to the provisions of the N.J.S.A. 59:2-1.

FIFTEENTH AFFIRMATIVE DEFENSE

Defendant is not liable to Plaintiffs pursuant to N.J.S.A. 59:2-2 (b) .

SIXTEENTH AFFIRMATIVE DEFENSE

Defendant is immune from liability pursuant to the provisions of N.J.S.A. 59:3-2.

SEVENTEENTH AFFIRMATIVE DEFENSE

Any recovery to which Plaintiffs may be otherwise entitled is subject to the reduction in accordance with the limitations on damages pursuant to N.J.S.A. 59:9-2.

EIGHTEENTH AFFIRMATIVE DEFENSE

Any acts and/or admissions and/or negligence, if any, on the part of Defendant is not the proximate cause of any damages or injuries which may have been sustained by Plaintiffs.

NINETEENTH AFFIRMATIVE DEFENSE

Defendant is immune from suit pursuant to the provisions of N.J.S.A. 59:2-10.

TWENTIETH AFFIRMATIVE DEFENSE

Defendant asserts that he is entitled to complete immunity by virtue of N.J.S.A. 59:4-1 et. seq.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Plaintiffs' claims are limited by N.J.S.A. 2A:15-97.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Plaintiffs' Complaint shoudle be dismissed because this Court does not hace subject matter of personal jurisdiction of this matter.

TWENTY-THIRD AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because Plaintiff has filed this action in an improper venue.

TWNETY-FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred due to insufficiecy of process.

DEMAND FOR JURY TRIAL

Under Fed.R.Civ.P. 38(b), Defendant demands a jury trial of all issues.

RESERVATION OF RIGHT AND CLAIM FOR ATTORNEYS FEES AND COSTS

Pursuant to the provisions of the Frivolous Law Act N.J.S.A. 2A:15-59.1 et seq. and New Jersey Federal District Court Rule 11, Defendant hereby asserts a claims against Plaintiffs for reimbursement of all attorney's fees and cost associated with this action.

DEMAND FOR DAMAGES

You are hereby requested and required to furnish to the undersigned within five (5) days, a written statement of the amount of damages claimed in this action.

DESIGNATION OF TRIAL COUNSEL

Leonard V. Jones, Esq., is hereby designated as trial counsel for Defendant.

CERTIFICATION

Pursuant to Local Rule 11.2, I certify that to the best of my knowledge, information and belief that the matter in controversy is not the subject of any other Court action or arbitration proceeding, nor pending or contemplated, and that no other parties should be joined in this action.

**CHASAN LAMPARELLO MALLON & CAPPUZZO, PC
Attorneys for Defendant Michael
Rempusheski**

By: /s/Leonard V. Jones

LEONARD V. JONES

DATED: January 24, 2022

CERTIFICATION

I certify that I am filing this pleading after the Court denied Defendant's Motion to Dismiss and there was not specific time limit to file same pursuant to the Court's December 10, 2021 Order. Further, Plaintiffs' counsel has not requested entry of default. Accordingly, I submit this pleading to have same entered on upon the docket and respectfully request same be accepted and entered upon the docket.

**CHASAN LAMPARELLO MALLON & CAPPUZZO, PC
Attorneys for Defendant Michael
Rempusheski**

By: /s/Leonard V. Jones

LEONARD V. JONES

DATED: January 24, 2022